

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JAMAL L. RICE,

Petitioner,

v.

STATE OF PENNSYLVANIA, SETH
WILLIAMS – D.A., TIMIKA LANE -
JUDGE,

Respondents.

CIVIL ACTION NO. 16-767

ORDER

AND NOW, this 8th day of June, 2016, after considering the petition for a writ of habeas corpus filed by the petitioner (Doc. No. 1); and after considering the state-court record; and after considering the report and recommendation filed by United States Magistrate Judge David R. Strawbridge (Doc. No. 4);¹ and the petitioner having not filed objections to the report and recommendation; accordingly, it is hereby **ORDERED** as follows:

1. The report and recommendation (Doc. No. 4) is **APPROVED** and **ADOPTED**;²
2. The petition for a writ of habeas corpus (Doc. No. 1) is **DISMISSED WITHOUT PREJUDICE**;
3. A certificate of appealability **SHALL NOT** issue; and

¹ The clerk of court remailed a copy of the report and recommendation to the petitioner at his new address on May 13, 2016.

² Since the petitioner has not filed objections to Judge Strawbridge's report and recommendation, the court need not review the report before adopting it. *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987). Nonetheless, "the better practice is for the district judge to afford some level of review to dispositive legal issues raised by the report." *Id.* As such, the court will review the report for plain error. *See Oldrati v. Apfel*, 33 F. Supp. 2d 397, 399 (E.D. Pa. 1998) ("In the absence of a timely objection, . . . this Court will review [the magistrate judge's] Report and Recommendation for clear error." (internal quotation marks omitted)). The court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). The court has reviewed Judge Strawbridge's report for plain error and has found none.

4. The clerk of court is **DIRECTED** to mark this matter as **CLOSED**.

BY THE COURT:

/s/ Edward G. Smith
EDWARD G. SMITH, J.